

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK
3
4

5 - - - - -X

6 UNITED STATES OF AMERICA

12-CR-6126(G)

7 vs.

8 CHELLSIE BLUE,

Defendant.

Rochester, New York

June 19, 2014

4:00 p.m.

9 - - - - -X

10
11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE FRANK P. GERACI, JR.
13 UNITED STATES DISTRICT JUDGE

14 WILLIAM J. HOCHUL, JR., ESQ.
15 United States Attorney
16 BY: TIFFANY H. LEE, ESQ.
17 Assistant United States Attorney
18 6200 Federal Building
19 Rochester, New York 14614

20 MARIANNE MARIANO, ESQ.
21 Federal Public Defender
22 BY: MARK D. HOSKEN, ESQ.
23 Assistant Federal Public Defender
24 28 East Main Street, Suite 400
25 Rochester, New York 14614
Appearing on behalf of the Defendant

ALSO PRESENT: Kerry Chartier, U.S. Probation Office

COURT REPORTER: Christi A. Macri, FAPR, RMR, CRR, CRI
Kenneth B. Keating Federal Building
100 State Street, Room 4240
Rochester, New York 14614

P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present).

THE COURT: Are you Chellsie Blue?

THE DEFENDANT: Yes.

THE COURT: Ms. Blue appears with her attorney
Mr. Hosken?

THE DEFENDANT: Yes.

THE COURT: The Government's represented by Ms. Lee.
The matter's on for sentencing.

The Court has received the presentence report from
the Probation Department. Also received the Government's
statement. Also received defendant's statement relating to
sentencing. And then the Government's response to the
defendant's statement, and then the defense response to the
Government's response.

And I have reviewed all those particular documents.

I know there are a couple of issues here. One of
them is that the Probation Department has assessed two
additional points for Ms. Blue being a leader or organizer of
this criminal activity. That was not part of the plea
agreement. I do understand that the parties did not include
that as a factor in determining what they proposed as the
potential guideline sentence in this particular case.

The parties had indicated that the -- pursuant to

1 the plea agreement, that the offense level would be 33, with a
2 criminal history category of I, for a sentencing range of 135
3 to 168 months.

4 Probation's determined that the total offense level
04:13:28PM 5 is 35, the criminal history category I, the difference between
6 that role -- the two additional points for the role that the
7 defendant had in the criminal activity, being a leader or
8 organizer, resulting in a guidelines range sentence of 168
9 months to 210 months.

04:13:50PM 10 So I don't know if you wanted to address that
11 first, Mr. Hosken?

12 **MR. HOSKEN:** Judge, I noticed that in the
13 presentence investigation report. I've reviewed the law and I
14 don't think there is a good faith basis to object. It is the
04:14:03PM 15 lowest adjustment and I would anticipate that the Court would
16 find -- even if Ms. Blue was not a leader, manager or
17 supervisor, the Court may conclude that she was an organizer
18 and as such it appears that the application would be proper.

19 So in good faith I cannot file a legal objection to
04:14:28PM 20 that, Your Honor, and I do not. That's not to say I don't
21 believe a non-guideline sentence is appropriate, but for
22 purposes of the guidelines calculations, I did not object to
23 that.

24 **THE COURT:** In addition to that, I do believe that
04:14:43PM 25 paragraph 19 of the plea agreement also indicates that the

1 Court's not bound to accept the calculations set forth in the
2 agreement by the parties, and the defendant would not be
3 allowed to withdraw her plea based upon that.

4 So I think we are at the point where the total
04:15:02PM 5 offense level would be considered 35, with a criminal history
6 category of I, with the guideline sentence range being 168 to
7 210.

8 Other than that, I don't believe you have any
9 objections to the presentence report; is that correct?

04:15:16PM 10 **MR. HOSKEN:** It is, Your Honor.

11 **THE COURT:** Okay. Did you want to be heard,
12 Ms. Lee?

13 **MS. LEE:** Your Honor, on this issue the Government
14 is bound by the position that it took in the plea agreement
04:15:25PM 15 pursuant to United States vs. *Lawlor*. So we take no position.

16 **THE COURT:** Do you want to be heard overall about
17 sentencing?

18 **MS. LEE:** Overall about sentencing, Your Honor, the
19 Government rests upon the submissions that it has submitted to
04:15:37PM 20 the Court.

21 **THE COURT:** Okay. Mr. Hosken?

22 **MR. HOSKEN:** Thank you, Your Honor. Judge, I know
23 that there's been a lot of filings that the Court has been
24 presented, and I recognize that this is probably the first
04:15:54PM 25 time I've stood before the Court when the crime for which the

1 individual standing before you to be sentenced is facing the
2 widest discretion available. You can impose a sentence
3 anywhere from one day in jail up to life imprisonment for this
4 conduct.

04:16:12PM 5 I told Ms. Lee that I responded to her papers
6 yesterday and I think it's appropriate, Judge, to talk about
7 the latest filing by the Government in this way: Your Honor
8 might recall back in October of 1988, a couple years before
9 Chellsie Blue was born, there was a debate between
04:16:32PM 10 vice-presidential candidates Dan Quail and Lloyd Benson. And
11 you may remember that Dan Quail compared himself to Jack
12 Kennedy and Senator Benson replied.

13 And based upon the Government's filing, I would
14 paraphrase the response and that would be as follows, Judge: I
04:16:48PM 15 knew Tom Kramer, I previously represented Tom Kramer, and
16 Chellsie Blue is no Tom Kramer.

17 And I think when you start there, Judge, to
18 understand that there's -- although the Government wants you
19 to believe it's similar conduct, I explained to the Court the
04:17:03PM 20 conduct in this case as alleged occurred over four days. You
21 have two individuals ages 14 and 17.

22 You have individuals -- there's an issue as to the
23 14-year-old said she was involved with more than 12 men; there
24 was no indication it was 30.

04:17:23PM 25 She also said that she got to keep half the money,

1 not all the money was given to the Blues as maintained by the
2 Government, and that's why I provided the Court with the
3 criminal complaint because that was sworn to by
4 Officer Tucker.

04:17:36PM 5 The reason I presented that to the Court is there
6 is no claim whatsoever that there was any violence, threats of
7 violence or force that was used.

8 I recognize that a 14-year-old girl and a
9 17-year-old girl who asked how to participate in this conduct,
04:17:52PM 10 and then are led into the conduct by Chellsie and her sister.

11 In retrospect, though, Chellsie was 22 years of age
12 at that time and is now 24. I think she realizes, Judge, how
13 severe and how onerous the conduct was. I don't think she
14 recognized that at that time.

04:18:09PM 15 As you know, Judge, we're dealing with a young
16 woman who is now a convicted felon, who is now going to be
17 required to register as a sex offender for the rest of her
18 natural life, with no prior criminal history points
19 whatsoever, a young mother with two daughters age 7 years and
04:18:26PM 20 7 months.

21 A young woman with limited employment history, a
22 young woman with a 9th grade education, and a young woman who
23 at age 22 was involved in the criminal conduct that occurred
24 for less than a week in April of 2012.

04:18:44PM 25 I suggested to the Court when you look at

1 everything about Chellsie Blue, which I put in the writings, I
2 know you've read it so I won't repeat it, I don't disagree
3 with what the Government is trying to do, this is -- this
4 seems to be a high profile prosecution for the Department of
04:19:01PM 5 Justice.

6 But I also recognize that Ms. Blue is convicted of
7 conspiracy. There is no mandatory minimum in this case.

8 If these -- if these facts did not involve a
9 14-year-old or a 17-year-old, we probably wouldn't be standing
04:19:22PM 10 before the Court facing a possibility of life imprisonment.

11 I think when you look at all the sentencing
12 factors, Judge, it's not an enviable position that you find
13 yourself in.

14 You know from looking at the revised report that
04:19:43PM 15 Chellsie Blue has 42 days in custody. She was at liberty for
16 a period of time, she could not stop using marijuana. She
17 appeared before Magistrate Judge Feldman, he remanded her to
18 custody, she stayed there for some 35 days.

19 She came out and she started learning some skills
04:20:04PM 20 about how to be a responsible young mother, how to be a
21 responsible young adult. Things that -- she was surviving and
22 doing things; they are taking care of her mom, her daughter
23 and trying to make the best of things on the street.

24 But I think when she spent that month in jail,
04:20:21PM 25 which is the longest period of time she ever did at that

1 point, she learned that there were consequences for the
2 actions that she did not take.

3 I recognize that when you look at the guidelines
4 168 to 210 months, you're presented with a recommended range
04:20:38PM 5 of 14 years to 17 and a half years for an individual that was
6 not involved in any violent behavior, an individual with no
7 prior criminal conduct, and an individual that was 22 years of
8 age when the conduct occurred.

9 It may strike the Court as my writings asking the
04:20:58PM 10 Court to consider a time served and supervised release, but I
11 know in the past that probation supervision who was given to
12 an individual that has so many needs as Chellsie does, those
13 needs to help her become productive, those needs can be
14 addressed by probation.

04:21:15PM 15 As you know, in the past Chellsie tried to get
16 started in the women's program. She couldn't comply with
17 that, Judge, because it was voluntary at that time. She had
18 difficulty with transportation and other obligations at home
19 between her mother and her daughter.

04:21:28PM 20 You heard this before when you issued the warrant
21 for her arrest, and she spent another six days in custody when
22 she came back on the violation last month. So you're familiar
23 with those facts as well.

24 Judge, I'll tell you when I first met Chellsie
04:21:43PM 25 there was a concrete wall that you couldn't blast through.

1 She could not understand, Judge, she could not understand how
2 she could possibly go to life imprisonment for just showing
3 two individuals the way of the world with respect to escorts.

4 The more time she spent reviewing the case and the
04:22:01PM 5 more she understood it, I think it became -- and perhaps with
6 her getting older and having another child, I think with those
7 things she started to come to grips with how serious her
8 conduct was and where she can find herself.

9 Simply put, Judge, I think that if the Court would
04:22:19PM 10 consider a lengthy term of supervised release to allow
11 Ms. Blue to show the Court, the Government and Probation that
12 she can succeed and that she can abide by the rules, I would
13 ask you to consider that, for many more years of supervision
14 as opposed to incarceration.

04:22:38PM 15 Once again, I recognize the guidelines are
16 significant. If the Court believes that there's some
17 punishment that's necessary, I'd ask the Court to consider a
18 sentence of 12 months in confinement either at the halfway
19 house or electronic monitoring to bring home to Ms. Blue the
04:22:54PM 20 consequences for her action.

21 I am confident, Judge, whatever sentence you impose
22 it is likely that she will comply with all those terms and
23 conditions, and I think it's highly unlikely you will see her
24 come back before you whatever decision you make.

04:23:09PM 25 So based upon all those factors, Judge, I'm asking

1 you to impose the non-guideline sentence that I requested; and
2 if you believe that confinement is necessary, I'm asking you
3 to consider a term of no more than one year, either in the
4 Volunteers of America or an electronic monitoring. Thank you,
04:23:24PM 5 Judge.

6 **THE COURT:** Thank you.

7 Ms. Blue, do you want to say anything?

8 **THE DEFENDANT:** No, just I put everything in the
9 letter, that's okay. I don't have anything to say.

04:23:37PM 10 **THE COURT:** You don't want to say anything else?

11 **THE DEFENDANT:** (Shakes head).

12 **MR. HOSKEN:** Judge, I think she said she put it all
13 in the letter which was attached to our sentencing statement.

14 **THE COURT:** Yeah, I have read that.

04:23:48PM 15 Regarding this matter, the defendant did waive
16 indictment, pled guilty to conspiracy to commit sex
17 trafficking of a minor that occurred over a period of time in
18 April of 2012.

19 The two individuals were aged 14 and 17. And
04:24:07PM 20 engaged in prostitution activity over that period of time.

21 Many prostitution activities according to their
22 statements that they provided.

23 That those two individuals were advertised on
24 backpage and put out for prostitution activities. They were
04:24:31PM 25 also provided with both alcohol and drugs. These acts

1 occurred at the home of the defendant, her sister's home, as
2 well as two motels in the area, the 490 Motel and the Gates
3 Motel.

4 As Mr. Hosken's pointed out, Ms. Chellsie Blue has
04:24:55PM 5 a very minor record, petit larceny back in 2009. She has two
6 children, a 6-year-old and a 5-month-old.

7 She has had a history of having a problem with the
8 use of marijuana. Also, she did attempt to get involved in
9 the women's program, but that didn't work out.

04:25:19PM 10 She did attend Edison High School through the 8th
11 grade.

12 The base offense level for this particular matter
13 is a base offense level of 30. Based upon the fact that the
14 Court does agree with Probation, that Ms. Chellsie Blue, along
04:25:45PM 15 with her sister, were organizers, at least, of these
16 activities, and that they recruited these young women to
17 participate in prostitution activities, provided them with the
18 location to conduct those activities.

19 Also shared in the proceeds from those illegal
04:26:05PM 20 sexual activities. Clearly, two points for being an organizer
21 is appropriate.

22 There's an additional two point adjustment based
23 upon the use of computers, specifically here the use of
24 advertising the services of these young women on a computer,
04:26:24PM 25 which would involve another two level upward adjustment.

1 Based upon the fact that it involved a sexual act
2 is a two point upward adjustment.

3 And, finally, based upon the fact that there were
4 two separate victims in this case, an adjusted combined
04:26:44PM 5 offense level of a two level increase results in a total
6 offense level of 38.

7 Ms. Blue will receive a three level downward
8 adjustment based upon acceptance of responsibility by her plea
9 of guilty, her acknowledgment of her activities in this
04:27:07PM 10 particular case, resulting in a total offense level of 35,
11 along with a criminal history category of I, which results in
12 a sentencing range of between 168 months and 210 months, which
13 as Mr. Hosken has pointed out, somewhere between 14 and 17
14 years under the guidelines.

04:27:31PM 15 This particular offense could involve up to life
16 incarceration and could involve very minimal period of
17 incarceration or no incarceration, it's a wide range of
18 sentencing here.

19 Ms. Blue, I'm looking at everything that existed
04:27:47PM 20 here and I'm concerned. I agree with your attorney you're not
21 Mr. Kramer. You were involved in this activity as far as
22 recruiting others for a relatively short period of time, but
23 you were engaged in this activity yourself for quite a bit of
24 time. And it's clear to me that you did recruit and use these
04:28:12PM 25 young girls.

1 How old is your daughter now?

2 **THE DEFENDANT:** She turned 7 today.

3 **THE COURT:** Today?

4 **MR. HOSKEN:** One 7 today and the other daughter is 7
04:28:20PM 5 months now, Your Honor.

6 **THE COURT:** What would you think in 7 years from now
7 if your daughter was picked up on the street and taken
8 somewhere by someone and introduced to this, the way of the
9 world, to prostitution activities? What would you think of
04:28:35PM 10 that?

11 **THE DEFENDANT:** I wouldn't like that.

12 **THE COURT:** No, you wouldn't, would you?

13 **THE DEFENDANT:** (Shakes head).

14 **THE COURT:** These girls have parents and these young
04:28:42PM 15 girls deserved to be treated better as well.

16 These are activities that are just totally
17 unacceptable, especially for a minor to be brought into this
18 type of activity on the street and to utilize them, it's
19 really a form of slavery to do that to individuals, to bring
04:29:04PM 20 them in and have them commit sex acts with dozens of men for
21 money that went into your pocket ultimately, at least
22 partially. And it's just conduct that cannot be accepted and
23 has to be punished.

24 There has to -- there has to be a message out there
04:29:30PM 25 that this type of activity, utilizing young people to engage

1 in sexual activities and trafficking young people, is
2 something that we simply cannot tolerate in this community.

3 And you did a lot. I mean, you and your sister
4 provided them clothes and places to commit these acts and
04:29:51PM 5 drugs and alcohol. And I don't quite understand except for
6 the fact that you were engaged in those activities yourself.

7 You somehow thought that was the way you needed to
8 survive in this community. There's a lot better ways to
9 survive in the community, and there are people similar to
04:30:11PM 10 yourself who grew up in tougher situations who have found
11 other routes to support their family other than what you did
12 in this case.

13 Therefore, the Court has to consider a number of
14 factors, including the nature and circumstances of the
04:30:32PM 15 offense, obviously, a very serious offense, utilizing young
16 people to engage in prostitution activities and receiving
17 proceeds from those acts that those individuals were
18 committing with men throughout this community.

19 Considering your background, I have some sympathy
04:30:53PM 20 for you in that I know you had substance abuse issues and
21 don't have a long criminal history. So I think in that sense
22 it somewhat mitigates your activity.

23 However, I think we have to impose a sentence that
24 reflects the seriousness of the offense, particularly in
04:31:13PM 25 taking young people and turning them into prostitutes, it's

1 not the way you help young women in this community by turning
2 them into prostitutes.

3 We have to deter others from engaging in this type
4 of activity and protect the public from further crimes from
04:31:32PM 5 you and also from other individuals who may engage in this
6 type of activity.

7 As I just indicated, the sentencing guidelines
8 would indicate a sentence of between 14 and 17 years and I
9 think that's excessive. I don't think that's an appropriate
04:31:52PM 10 sentence in this particular case based upon your lack of
11 criminal history here.

12 But I do believe that a sentence of time served or
13 12-month period of incarceration is also not the right message
14 to send to the community or to you; that this activity is
04:32:12PM 15 something that needs to be punished and stopped and deterred
16 in the future.

17 Based upon all that, it's the sentence of the Court
18 that the defendant, Chellsie Blue, be sentenced to 72 months
19 of incarceration to the Bureau of Prisons.

04:32:31PM 20 In addition, she be sentenced to five years of
21 supervised release.

22 Impose a fine of \$500, which will be collected over
23 a period of time while she is incarcerated.

24 A special assessment of \$100.

04:32:45PM 25 And special conditions of supervised release,

1 including the fact that the defendant must register as a sex
2 offender wherever she may live, work or be employed.

3 Submit to any substance abuse evaluation and
4 treatment.

04:33:04PM 5 Use no alcohol or drugs while she's under
6 supervised release.

7 Receive mental health evaluation and treatment.

8 Provide a DNA sample for analysis.

9 To submit to any searches by the Probation
04:33:19PM 10 Department of any home where she may live or any vehicles that
11 she may be operating.

12 Based upon the offense here as well, the defendant
13 must submit to drug testing. As I indicated, the use of any
14 alcohol or drugs would be a violation of the conditions of
04:33:49PM 15 supervised release.

16 I believe part of the plea agreement was a
17 forfeiture of a computer and a cell phone and the Court will
18 order that to be forfeited as well as part of this sentence.

19 Are there any other conditions of supervised
04:34:04PM 20 release?

21 **MR. SPOGEN:** No, Your Honor. I think one of the
22 recommendations that she be housed as close to Rochester as
23 possible.

24 **THE COURT:** Yes, I know you have family here, you
04:34:12PM 25 have young children, you have family as well that are

1 supportive of you, and based upon that I will order that you
2 be housed as close to Rochester as possible so you can receive
3 their guidance.

4 **MR. HOSKEN:** If I could address two things, Judge?

04:34:26PM 5 **THE COURT:** Sure.

6 **MR. HOSKEN:** Judge, first off, I know the Court
7 referenced that this is a form of slavery, and it may not
8 change the Court's indication what's a proper sentence, but I
9 want to alert the Court to the following.

04:34:38PM 10 The conduct in this case, Your Honor, is limited
11 between April 14th and April 18th with respect to the
12 14-year-old, which was four days; and according to the
13 information with respect to the 17-year-old, no more than a
14 week's conduct.

04:34:53PM 15 There was no indication that the 14-year-old nor
16 the 17-year-old were kept against their will, Your Honor. In
17 fact, as I pointed out in my letter yesterday, they were told
18 at any time they could leave and they chose to leave.

19 So I would ask the Court to reconsider that with
04:35:10PM 20 respect to the traditional nature of these charges where it
21 might be a situation where someone was in slavery and was not
22 permitted to leave. So I would ask you to consider that.

23 **THE COURT:** Maybe the term "slavery" was not proper
24 in that I'm not saying they were kidnapped or held against
04:35:25PM 25 their will in that sense.

1 Clearly a 14 and 17-year-old do not have, I think,
2 the ability to make the type of judgments that an adult makes,
3 and Ms. Blue was an adult when she engaged in these activities
4 and actually recruited and supported and advanced these
04:35:42PM 5 activities by advertising, by finding places for them to
6 reside, by sharing in the profits of this activity.

7 And so, no, it doesn't change my mind at all and I
8 think if I misused the term slavery, I apologize for that.
9 They were not held against their will, but they certainly were
04:35:58PM 10 in no position to make rationale judgments based upon their
11 age, but that does not in any way excuse the conduct by
12 Ms. Blue.

13 **MR. HOSKEN:** Thank you for the clarification, Your
14 Honor.

04:36:06PM 15 **THE COURT:** Sure.

16 **MR. HOSKEN:** Second issue is with respect to the
17 requirement that Ms. Blue participate in sex offender
18 treatment. And I know that's a standard condition recommended
19 by Probation in all sex offenses, and I know this comes under
04:36:18PM 20 the umbrella as a sex offense and Ms. Blue will be required to
21 register as a sex offender.

22 I don't think there's any indication in this
23 report, Your Honor, that in any way, shape or manner that
24 Ms. Blue had any interest with respect to minors or children.

04:36:36PM 25 I don't -- I'm familiar with the program that

1 Probation uses and it's primarily programs for individuals
2 that have had either instances of production of child
3 pornography, enticement of minors to have sex with minors or
4 other activities involving sex acts with minors.

04:36:52PM 5 So I'm asking the Court to find that that would not
6 be a reasonable condition under the circumstances of this
7 case, and I'm asking you not to impose that condition of
8 supervised release.

9 **THE COURT:** Okay. I don't think I did, did I?

04:37:04PM 10 **MR. SPOGEN:** Your Honor, I heard you say mental
11 health evaluation, but I did not hear you say for sex
12 offenders. You did make her register as a sex offender and
13 recommended mental health treatment.

14 **THE COURT:** I think it should be clear, Mr. Hosken.
04:37:17PM 15 I think your point is legitimate in that I was not ordering
16 that she participate in the sex offender program which is a
17 specialized program of the Probation Department.

18 However, she will undergo a mental health
19 evaluation and follow any treatment recommendations, if any,
04:37:31PM 20 and also that she register under the Sex Offender Registration
21 Act.

22 **MR. HOSKEN:** Thank you for clarification.

23 Lastly, Judge, I would ask the Court to consider
24 allowing Ms. Blue to voluntarily surrender to serve this
04:37:41PM 25 sentence. I would ask you to grant that application.

1 **THE COURT:** Based upon the circumstances of the
2 case, I'm going to have her surrender herself into custody at
3 this time.

4 **MR. HOSKEN:** Yes, Your Honor.

04:37:50PM 5 **THE COURT:** Okay. She'll be detained by the
6 marshals.

7 **MS. LEE:** Government moves to dismiss the criminal
8 complaint against Ms. Blue in this matter.

9 **THE COURT:** Criminal complaint will be dismissed.
04:38:05PM 10 Ms. Blue, I'm also advising you of your right to
11 appeal in this case. Based upon the fact that the sentence
12 was within the parameters of the plea agreement, you did limit
13 your right to appeal any sentence, but if there's other
14 issues, I'm sure Mr. Hosken will discuss those with you, okay?

04:38:20PM 15 **MR. HOSKEN:** Thank you, Your Honor.

16 **THE COURT:** Thank you.

17 **(WHEREUPON, the proceedings adjourned at 4:38 p.m.)**

18 * * *

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York before the Honorable Frank P. Geraci, Jr. on June 19th, 2014.

S/ Christi A. Macri

Christi A. Macri, FAPR-RMR-CRR-CRI
Official Court Reporter